

MAR 16 2006

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

**CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS**

FOR THE NINTH CIRCUIT

ALANA K. BULLIS,

Plaintiff - Appellant,

v.

MARTHA SANDERLIN,

Defendant - Appellee,

v.

CITY OF DUPONT,

Defendant-third-party-defendant
- Appellee.

No. 05-35965

D.C. No. CV-05-05080-RJB

MEMORANDUM^{*}

Appeal from the United States District Court
for the Western District of Washington
Robert J. Bryan, District Judge, Presiding

Submitted March 8, 2006^{**}

Before: CANBY, BEEZER, and KOZINSKI, Circuit Judges.

^{*} This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

^{**} The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Alana K. Bullis appeals pro se from the district court's summary judgment in her 42 U.S.C. § 1983 action alleging that Martha Sanderlin, acting in concert with city officials, violated her rights by harassing and defaming her. We have jurisdiction pursuant to 28 U.S.C. § 1291. We review de novo the district court's grant of summary judgment, *Morrison v. Hall*, 261 F.3d 896, 900 (9th Cir. 2001), and review for abuse of discretion a grant of attorneys' fees, *Price v. State of Hawaii*, 939 F.2d 702, 706 (9th Cir. 1991). We affirm.

The district court properly granted summary judgment to Sanderlin because Bullis failed to raise a genuine issue of material fact as to whether Sanderlin's conduct rose to the level of a constitutional violation, or whether she acted under color of state law. *See Ortiz v. Washington County*, 88 F.3d 804, 810 (9th Cir. 1996); *Paul v. Davis*, 424 U.S. 693, 712 (1976) (defamation, by itself, cannot support a section 1983 claim).

The district court did not abuse its discretion by determining that an award of attorneys' fees was appropriate based on a finding that Bullis's claim was "unreasonable, frivolous, meritless or vexatious." *See Margolis v. Ryan*, 140 F.3d 850, 854 (9th Cir. 1998).

AFFIRMED.